

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 34

MY SISTER'S PLACE, INC.

Employer

and

INTERNATIONAL CHEMICAL WORKERS  
UNION COUNCIL, UNITED FOOD AND  
COMMERCIAL WORKERS

Petitioner

Case No. 34-RC-2149

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board. Pursuant to Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record in this proceeding,<sup>1</sup> I find that: the hearing officer's rulings are free from prejudicial error and are affirmed; the Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction; the labor organization involved claims to represent certain employees of the Employer; and a question affecting commerce exists concerning the representation of certain employees of the Employer.

The Employer provides emergency and transitional housing and related services to homeless women and children in the Hartford, Connecticut area. The Petitioner

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<sup>1</sup> At the conclusion of the hearing, the Employer proffered its employee handbook as Employer Exhibit 10. However, it did not have a copy of the handbook at that time, so it agreed to provide the hearing officer and the Petitioner with a copy of the handbook prior to the submission of briefs. Although the Employer proffered a copy of the handbook to the hearing officer, it failed to provide a copy to the Petitioner. The Petitioner, in a letter accompanying its post-hearing brief, has objected to the Employer's conduct related to Employer Ex. 10. Accordingly, I reject Employer Exhibit 10 as an exhibit, and have not relied upon any references to that exhibit in the Employer's post-hearing brief.

seeks to represent a unit of 11 residential assistants (herein called RAs) at the Employer's emergency shelter (herein called the shelter) located on Capen St. in Hartford's North End, and its transitional living program (herein called TLP) located on Pliny St. in the North End. Although otherwise in accord as to the scope and composition of the unit, the Employer, contrary to the Petitioner, would include two case managers (herein called CMs), one located at the shelter and the other located at the TLP.<sup>2</sup> There is no history of collective bargaining regarding any of the petitioned-for employees.

I. FACTS

Primarily responsible for the Employer's overall operation is Executive Director Diane Paige-Blondet. Reporting to Paige-Blondet is Director of Programs and Operations Kathy Shaw. Reporting to Shaw is an assistant program director who directly supervises the RAs and CMs. There is also a clinical case manager who provides undefined "support" for the shelter and the TLP.<sup>3</sup>

The 24-hour shelter, located in a three-story home, provides temporary housing for up to 16 women and their children, for a period of up to 30 days. Meals and laundry services are provided by the RAs to the residents, who share semi-private rooms. CMs provide the residents with advocacy, referral and counseling services that are intended to prepare them for a future of self-reliance and permanent, safe housing. The TLP, located in a renovated factory, has 19 apartments with between one and four bedrooms.<sup>4</sup> Women and their children can stay in the TLP apartments for up to two years. Services provided to the TLP residents include a life skills program, education,

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<sup>2</sup> There is currently a vacancy in the CM position at the TLP, which the Employer has been attempting to fill since July of this year. An employee supplied by a temporary agency is currently occupying that position.

<sup>3</sup> The unit placement of this position is not at issue, as neither party seeks to include it in the unit.

<sup>4</sup> The Employer also operates a "Housing Coordination Program" at the TLP. This program provides resources such as rent, subsidies, security deposits, and loans for individuals with psychiatric disabilities. A housing coordinator assists in negotiating with the local housing market, and acts as a liaison between landlords and tenants. The unit placement of the housing coordinator is not at issue, as no party seeks to include that position in the unit.

empowerment and support groups. CMs at the TLP specifically assist the residents with such issues as employment, day care, finances, and other social services.<sup>5</sup>

There are 6 RAs assigned exclusively to the shelter, 2 assigned to both the shelter and the TLP, and 3 assigned exclusively to the TLP. The RAs assigned to the shelter each work a day, evening or night shift on weekdays and weekends. The job description for the shelter RAs sets forth the following duties and responsibilities:

Preparing 3 meals/day plus 2 snacks; serving the meals and properly following food preparation and storage procedures as described in the Safe Serve Training. Organizes and inventories food and supplies.

Supervises residents in household chores (meal time cleanup, laundry, bathroom cleanup, etc.) including dispensing measured cleaning chemicals.

Conducts house meetings with residents to review and reaffirm shelter program rules.

Mediate resident disagreements and provide crisis intervention. Contacts other appropriate program staff as necessary.

Teaches and motivates residents in the performance of independent living skills including personal hygiene, laundry, nutrition and meal preparation, maintaining a clean and safe environment, parenting, use of public transportation, socialization and self-advocacy.

Prepare room(s) for new residents – including doing house laundry, making beds, packing items, etc. during shift.

Assist in maintaining a safe and clean environment including staff area. Report any repairs needed promptly to the Assistant Program Director.

Adhere to hourly schedule of room and floor checks to assure safety of residents and staff. Ensure that alarm system is engaged and all windows and doors are secured properly.

Make appropriate entries into daily log books. Complete daily bed log information on each shift. Enter each incoming phone inquiry onto correct phone log sheets.

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<sup>5</sup> The Employer also operates a 30-unit “supportive housing facility” for single men and women in the North End of Hartford. Its residents must have a low income, require medical assistance, have psychiatric disabilities, or be homeless in order to qualify to live there. Voluntary case management and referral/advocacy services are available to the residents. A “Community Residential Program” is also operated at this facility, providing an array of social services to help women with psychiatric disabilities live independently in a variety of scattered site apartments. The unit placement of any employees at this facility is not at issue, as no party seeks to include any of such employees in the unit.

Accept requests for emergency shelter by determining who is to be accepted into the shelter according to shelter availability and guidelines. Complete first intake, explain shelter rules and give needed supplies.

Recognizes varied needs of individuals and works to accommodate differences and to support a healthy group dynamic.

Assists clients with the implementation of individual plans and goals. Provide supports for their achievements. Demonstrate understanding of residents' ethnicity, life history, etc.

Work closely with Assistant Program Director, Case Managers and other Residential Assistants to provide meaningful interactions for residents in the shelter. Receive and give report at beginning and end of shift about current needs and situations or problems.

Helps streamline practices, processes and procedures for the continuous improvement of the organization.

Communicate via agency email, telephone or written information to other appropriate agency staff on a regular basis.

Attend all MSP agency and shelter staff meetings as well as mandatory trainings.

Communicates with residents in a manner that bolsters their self esteem.

To enforce the rules, regulations and policies of MSP in a professional manner.

Other duties as appropriate and assigned.

The job description for the RAs who work at the TLP sets forth the following duties and responsibilities:

Participates in providing comprehensive planning and active support for the care, treatment and safety of the agency's clients.

Demonstrates understanding of clients by acknowledging individual difficulty, ethnicity and history.

Provides support for achievement of individual plans and goals.

Teaches clients and motivates the performance of independent living skills including: personal hygiene, laundry and appropriate dress; nutrition and meal preparation; maintaining a clean, safe environment; banking, budgeting, and shopping, use of public transportation; socialization and self-advocacy.

Assists clients to secure educational opportunities, jobs or vocational program placements.

Mediates client disagreements and crisis interventions.

Recognizes varied needs of individuals and plans programs to accommodate differences and to support a healthy group dynamic.

Assists clients with the coordination of services, schedules appointments and accompanies clients to appointments.

As necessary, serves as liaison with other parties.

Maintains current records, logs and completes necessary reports and correspondence.

Organizes and inventories food, equipment, supplies and donations.

Assists in maintaining a clean, safe environment, and completes monthly apartment inspections.

Networks with community agencies.

Attends and participates in meetings, conferences, seminars and training as appropriate.

Participate in planning activities for clients, program and agency.

Facilitates and/or coordinates life skill groups twice weekly with the Case Manager.

Monitors completion of resident chores.

Performs other duties as assigned.

One of the RAs assigned to the shelter is designated as a “senior” RA, who the parties agree should be included in the unit. The senior RA only works the day shift, Monday through Friday. The senior RA job description is identical to the job description for the RAs at the TLP, with the following additional responsibilities:

Submit time sheets to supervisor, maintain staff schedule for the month, obtain coverage for shift’s when necessary.

Make arrangements for shelter repair service in conjunction with the APD.

Train and assign new shelter staff and volunteers.

Although not entirely clear, it appears that the main difference between the RAs at the shelter and the RAs at the TLP is that the latter do not prepare meals for residents, and they are more involved in case intake and orientation, as well as providing advocacy and counseling services to residents. In addition, one RA at the TLP also serves as a receptionist, performing typical clerical duties. Finally, the RAs at the TLP only work the day and evening shifts. None of the RAs are required to be on-call.

As noted above, there is one CM assigned to the shelter and one assigned to the TLP. They both work the day shift on Mondays through Friday. However, they will occasionally vary their daily schedule by coming in early or staying later in order to accommodate resident schedules. The job description for the CM at the shelter sets forth the following duties and responsibilities:

- Assist and or complete intake and assessment of each new shelter resident.

- Develop and implement the life skills program. Facilitate a life skills group each week for the residents. Topics to be covered will include: anger management, employment skills, money management, parenting, etc.

- Meet with each resident within 72 hours and develop, through regular conferences, a contract and action plan that will clearly state her goals and identify internal and external blocks to power.

- Provide counseling and clinical intervention that also raises consciousness with each woman on a regular basis (usually weekly).

- Provide assistance to Resident Assistants during busiest times of day such as dinner or breakfast. This help will also provide an opportunity to assess interaction of residents, and provide insight to family units.

- Identify education and employment training opportunities in the Greater Hartford area and assist each woman in the selection and enrollment in the program of her choice.

- Provide referrals to appropriate resources for all other needed services (long-term or special counseling, medical, dental, legal, substance abuse, etc.).

- With each mother, assess each child's needs, particularly regarding their needs for education, day care, medical/dental treatment, and or counseling and assist mothers in obtaining needed services.

- Assist residents with application for entitlements, student loans and grants.

Explore housing options within the community to assist clients' in obtaining permanent housing.

Participate in staff meetings to review programs policy, set behavioral contracts for individual residents, develop programs for residents, etc.

Monitor behavioral contracts with residents established by staff.

Manage case files and group records. Complete required reporting in compliance with funder's requirements.

Develop a listing of resources available for residents, including subsidized housing program.

Perform other related duties as assigned by the Assistant Program Director.

Attends and participates in agency wide and specific social work training, meetings as appropriate.

The job description for the CM at the TLP sets forth the following duties and responsibilities:

Run orientation for applicants. Work with the Assistant Program Director in preparing assessment for application.

Develop and implement the life skills program. Facilitate a life skills group three to four times a month for the residents. Topics to be covered will include: anger management, employment skills, money management, parenting, etc.

Meet with each resident and develop, through regular conferences, a contract and action plan that will clearly state her goals and identify internal and external blocks to power.

Provide counseling and clinical intervention that also raises consciousness with each woman on a regular basis (usually weekly).

Identify education and employment training opportunities in the Greater Hartford area and assist each woman in the selection and enrollment in the program of her choice.

Provide referrals to appropriate resources for all other needed services (long-term or special counseling, medical, dental, legal, substance abuse, etc.).

With each mother, assess each child's needs, particularly regarding their needs for education, day care, medical/dental treatment, and or counseling and assist mothers in obtaining needed services.

Assist residents with application for entitlements, student loans and grants.

Explore housing options within the community and inspect the apartment selected by each resident preparing to move to permanent housing.

Co-facilitate the weekly empowerment group and other groups, as needed, e.g., children's groups, issue-specific women's groups.

Participate in staff meetings to review programs policy, set behavioral contracts for individual residents, develop programs for residents, etc.

Monitor behavioral contracts with residents established by staff.

Manage case files and group records. Complete required reporting in compliance with funder's requirements.

Develop a listing of resources available for residents, including subsidized housing program.

Plan and conduct follow-up activities with/for graduates of program.

Perform other related duties as assigned by the Assistant Program Director.

Attends and participates in agency wide and specific social work training, meetings as appropriate.

Thus, the only differences between the CMs at the shelter and the TLP is that the shelter CM assists the RAs in performing their duties, such as serving meals, and the CM at the TLP co-facilitates the weekly empowerment group and other resident group meetings, and plans and conducts follow-up activities with program graduates. In all other respects, it appears that the CM at the shelter and the CM at the TLP perform the same duties and have the same responsibilities.

The primary reason for work-related contacts between the CMs and the RAs is to facilitate the flow of information about the residents at the shelter and the TLP. Thus, the RAs maintain detailed logs as to everything that happens on their shift involving the residents. The CMs utilize the logs for their ongoing counseling activities vis-à-vis the residents, and for accurately documenting and maintaining all resident case files. RAs may also communicate such information directly to the CMs, and CMs may directly follow up with RAs regarding such information. However, RAs do not routinely perform any CM duties, nor do CMs routinely perform any RA duties. The only overlap in duties



appears to be limited to initial resident intake, particularly at the shelter, which may be performed by either the RA or the CM depending on the circumstances. RAs may also perform some limited advocacy work on behalf of residents, particularly at the TLP, such as making phone calls to schools or making doctor's appointments. In addition, the record reflects that the CM at the shelter occasionally assists RAs in serving meals or preparing rooms for new residents.

All employees are subject to the same rules, regulations and policies, and all enjoy the same benefits. However, RAs are hourly paid and receive time and one-half for overtime, whereas the CMs are paid a salary and are not compensated for overtime. Moreover, according to the RA job descriptions, the wage range for RAs is \$8.00 to 11.60 per hour; the wage range for the senior RA is \$8.00 to 14.60 per hour; and the wage range for the RA-receptionist is \$6.15 to 8.00 per hour.<sup>6</sup> The CMs are paid a starting salary of \$30,000 (equivalent to \$14.42 per hour), but there is no evidence or claim that there is any cap on their annual salary. The record does not reflect the salary for the incumbent CM at the shelter. The CMs wear a beeper so that they may be contacted during the evening and night shifts, or on weekends, in the event of an emergency. RAs do not wear a beeper and are not considered on-call when they are not working. The CM at the shelter shares an office with the clinical case manager who, as noted above, no party seeks to include in the unit. The RAs at the shelter have a "work station" located in one of the rooms at the shelter. The record does not reflect the work locations of the RAs and CM at the TLP. There are no uniforms required at either facility.

CMs are required to have a Bachelors Degree in Social Work plus three years experience in the mental health or related field. The reason for this requirement is that the CMs must provide case notes and case management in furtherance of their referrals and advocacy on behalf of residents, none of which is performed by RAs. CMs must also have a driver's license plus an operating car with no-fault insurance, which appears

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<sup>6</sup> Although Kathy Shaw, the Director of Programs and Operations, testified that several RAs "probably" exceed the \$11.60 per hour wage cap, and that the senior RA's wage rate is probably toward the high end of the scale, no documentary evidence was proffered regarding the exact wage rate of any RA.

to be related to their job duty of inspecting the apartments selected by each resident preparing to move to permanent housing.

For the Senior RA and the RAs at the TLP, there is only a “preference” for a Bachelors Degree or five years experience working with the homeless population. The educational requirement for the RAs at the shelter is a high school diploma or equivalent, with a “preference” for an Associates Degree in Human Services, Education or a related field. The RA/receptionist requires only a high school diploma or GED. None of the RAs are required to have a driver’s license and an operating car. There is no evidence that any RA has progressed to the CM position, or that there have been any temporary or permanent transfers between the RA and CM positions.

## II. ANALYSIS AND CONCLUSION

The Board has long recognized that there is no statutory requirement that a unit for collective bargaining be the most appropriate unit. Rather, the Act only requires that the unit sought be “an” appropriate unit. *Overnite Transportation Co.*, 322 NLRB 723 (1996). Therefore, a petitioner is not required to seek the “most” appropriate unit of employees, unless an otherwise appropriate unit does not exist. *P. Ballantine & Sons*, 141 NLRB 1103, 1107 (1963). The essential inquiry is whether a particular grouping of employees share a community of duties and interests sufficiently distinct from other employees so as to warrant their establishment as a separate unit. In determining the appropriate unit, the following community of interest criteria are considered: degree of functional integration, common supervision, employee skills, interchangeability, contact among employees, similarities in wages, hours, benefits and other terms and conditions of employment, and bargaining history. *Kalamazoo Paper Box Co.* 136 NLRB 134 (1962); *Franklin Mint Corp.*, 254 NLRB 714 (1981). Moreover, the Petitioner’s desire as to the unit composition is a relevant, but not dispositive, factor. *Airco, Inc.*, 273 NLRB 348 (1984).

Based upon the above and the record as a whole, I find that the CMs do not share a sufficient community of interest with the RAs to require their inclusion in the petitioned-for unit. In this regard, although the CMs and RAs are commonly supervised, have regular work-related contacts, and work under similar terms and conditions of employment, they have distinctly different, non-interchangeable duties and

responsibilities. See *Lawson Mardon U.S.A., Inc.*, 332 NLRB 1282, 1287 (2000); *Overnite Transportation Co.*, 322 NLRB 347, fn. 1 (1996); *Florida Casino Cruises, Inc.*, 322 NLRB 857 (1997); *Ore-Ida Foods, Inc.*, 313 NLRB 1016 (1994). In addition, the requirement that CMs have a Bachelors Degree in Social Work, which in turn permits them to perform certain job-related functions that cannot be performed by RAs, highlights the distinctly different nature, purpose and interests of their position. See *Lawson Mardon U.S.A., Inc.*, supra; *Overnite Transportation Co.*, supra, 322 NLRB 347; see also *Duke University*, 226 NLRB 470, 473 (social service designee)(1976). Finally, I note that the CMs, in contrast to the RAs, are paid at a significantly higher rate than all but one RA, that they are not paid for overtime, that they are always on-call and wear a beeper for such purposes, that the CM at the shelter has a separate office, that the CMs must have a license and an operating motor vehicle in order to perform work outside the Employer's facilities, and that there is no temporary or permanent interchange or transfers between the CM and RA positions. See *Skyline Distributors, a Division of Acme Markets*, 319 NLRB 270, fn. 1 (1995); *Ore-Ida Foods, Inc.*, supra; *Overnite Transportation Co.*, supra, 322 NLRB 347. Accordingly, I shall exclude the case managers from the petitioned-for unit.<sup>7</sup>

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time residential assistants, including the senior residential assistant and the residential assistant/receptionist, employed by the Employer at its facilities located at 102 Pliny St. and 102-104 Capen St. in Hartford, Connecticut, but excluding case managers, office clerical employees, and guards, professional employees and supervisors as defined in the Act.

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<sup>7</sup> In light of my determination herein, it is unnecessary to address the Petitioner's contention, raised for the first time in its post-hearing brief, that the CMs are professional employees. In this regard, I note that the Petitioner has expressed an unwillingness to proceed to an election if the CMs are included in the petitioned-for unit.

## **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted among the employees in the unit found appropriate herein at the time and place set forth in the notices of election to be issued subsequently.

**Eligible to vote:** those employees in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were in the military services of the United States, ill, on vacation, or temporarily laid off; and employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period, and their replacements.

**Ineligible to vote:** employees who have quit or been discharged for cause since the designated payroll period; employees engaged in a strike who have been discharged for cause since the strike's commencement and who have not been rehired or reinstated before the election date; and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced.

The eligible employees shall vote whether or not they desire to be represented for collective bargaining purposes by International Chemical Workers Union Council, United Food and Commercial Workers.

To ensure that all eligible employees have the opportunity to be informed of the issues in the exercise of their statutory rights to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within seven (7) days of the date of this Decision and Direction of Election, the Employer shall file with the undersigned, an eligibility list containing the *full* names and addresses of all the eligible voters. *North Macon Health Care Facility*, 315 NLRB 359 (1994). The undersigned shall make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional office, 280 Trumbull Street, 21st Floor, Hartford, Connecticut 06103, on or before October 28, 2005. No extension of

time to file these lists shall be granted except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed.

### **Right to Request Review**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570, or electronically pursuant to the guidance that can be found under "E-gov" on the Board's web site at [www.nlr.gov](http://www.nlr.gov). This request must be received by the Board in Washington by November 4, 2005.

Dated at Hartford, Connecticut this 21<sup>st</sup> day of October, 2005.

/s/ Jonathan B. Kreisberg  
Jonathan B. Kreisberg, Acting Regional Director  
National Labor Relations Board  
Region 34